



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0289]

RIN 1625-AA00

Safety Zones in Reentry Sites; Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing five temporary safety zones for the safe splashdown and recovery of reentry vehicles launched by Space Exploration Technologies Corporation (SpaceX) in support of National Aeronautics and Space Administration (NASA) missions through December 31, 2022. The temporary safety zones are located within the Seventh Coast Guard District area of responsibility (AOR) offshore of Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida. This rule implements a special activities provision of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. This action is necessary to protect vessels and waterway users from the potential hazards created by reentry vehicle splashdowns and recovery operations in the U.S. Exclusive Economic Zone (EEZ). It is also necessary to provide for the safe recovery of reentry vehicles, and any personnel involved in reentry services, after the splashdown. This rule prohibits U.S.-flagged vessels from entering any of the temporary safety zones unless authorized by the District Commander of the Seventh Coast Guard District or a designated representative.

DATES: This rule is effective from August 10, 2022, through December 31, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0289 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Ryan Gilbert, District 7 Waterways Division (dpw), U.S. Coast Guard; telephone 305-415-6750, email Ryan.A.Gilbert@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BNM	Broadcast Notice to Mariners
CRS-25	Commercial Resupply Service-25 Mission
CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
EEZ	Exclusive Economic Zone
FAA	Federal Aviation Administration
FL	Florida
FR	Federal Register
JAXPORT	Jacksonville Port Authority
MSIB	Marine Safety Information Bulletin
NASA	National Aeronautics and Space Administration
NM	Nautical Mile
NPRM	Notice of Proposed Rulemaking
§	Section
SpaceX	Space Exploration Technologies Corporation
U.S.	United States
U.S.C.	United States Code

II. Background Information and Regulatory History

On June 13, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** titled "Safety Zones in Reentry Sites; Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida."¹ In the NPRM, we stated the purpose of the rulemaking was to create five safety zones off the coast of Florida that would ensure the protection of vessels and waterway users in the U.S. Exclusive

¹ 87 FR 35697.

Economic Zone (EEZ)² from the potential hazards created by reentry vehicle splashdowns³ and recovery operations, and the safe recovery of reentry vehicles and personnel involved in reentry services.⁴ The NPRM invited comments on the proposed rule. During the comment period that ended July 13, 2022, we received one comment.

On January 1, 2021, the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283) (Authorization Act) was enacted. Section 8343 (134 Stat. 4710) calls for the Coast Guard to conduct a 2-year pilot program to establish and implement a process to establish safety zones to address special activities in the U.S. EEZ. These special activities include space activities⁵ carried out by United States (U.S.) citizens. Terms used to describe space activities, including *launch*, *reentry site*, and *reentry vehicle*, are defined in 51 U.S.C. 50902, and in this document.

The Coast Guard has long monitored space activities impacting the maritime domain and taken actions to ensure the safety of vessels and the public as needed during space launch⁶ operations. In conducting this activity, the Coast Guard engages with other government agencies, including the Federal Aviation Administration (FAA) and National Aeronautics and Space Administration (NASA), and private space operators, including Space Exploration Technologies Corporation (SpaceX). This engagement is necessary to ensure statutory and regulatory obligations are met to ensure the safety of launch operations and waterway users.

² The Coast Guard defines the U.S. *exclusive economic zone* in 33 CFR 2.30(a). *Territorial sea* is defined in 33 CFR 2.22.

³ *Splashdown* refers to the landing of a reentry vehicle into a body of water.

⁴ *Reentry Services* means (1) activities involved in the preparation of a reentry vehicle and payload, crew (including crew training), government astronaut, or space flight participant, if any, for reentry; and (2) the conduct of a reentry.

⁵ *Space Activities* means space activities, including launch and reentry, as such terms are defined in section 50902 of Title 51, United States Code, carried out by United States citizens.

⁶ The term *launch* is defined in 51 U.S.C. 50902.

During this engagement, the Coast Guard was informed of space reentry vehicles and recovery operations in the U.S. EEZ. Section 50902 of 51 U.S.C. defines "reentry vehicle" as a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact. SpaceX, a U.S. company, has identified five reentry sites⁷ within the U.S. EEZ of the Seventh Coast Guard District area of responsibility (AOR) expected to be used for the splashdown and recovery of reentry vehicles. All of these sites are off the coast of Florida (FL) – three are located in the Atlantic Ocean and two are located in the Gulf of Mexico.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under section 8343 of the Authorization Act. The Seventh District Commander has determined that there are potential hazards in the U.S. EEZ created by reentry vehicle splashdowns and recovery operations, and the safe recovery of reentry vehicles and personnel involved in reentry services. The purpose of this rule is to ensure safety of vessels, reentry vehicles, personnel involved in reentry services and the navigable waters in the safety zone before, during, and after the scheduled event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because this rule is needed to ensure the safe splashdown and recovery of reentry vehicles launched by SpaceX in support of NASA missions for the remainder of 2022. Delaying the effective date of this rule would be impracticable because the Commercial Resupply Service-25 (CRS-25) Mission is expected to splashdown on approximately August 10, 2022, and the rule needs to be effective prior to that date to ensure the protection of

⁷ *Reentry site* means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the FAA Administrator issues or transfers under this chapter).

vessels and waterway users in the U.S. EEZ from the potential hazards created by reentry vehicle splashdowns and recovery operations, and the safe recovery of reentry vehicles and personnel involved in reentry services.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published on June 13, 2022. The commenter, Jacksonville Port Authority (JAXPORT), sought insight from the St. John's Bar Pilots, who are charged with navigating vessels on the St. Johns River. The commenter stated that the proposed Jacksonville safety zone would not interrupt the transit of vessels to or from JAXPORT. Therefore, JAXPORT had no objections to the proposed Jacksonville safety zone and would continue cooperating with the Coast Guard. The Coast Guard acknowledges this comment.

There are no changes in regulatory text to this rule from the proposed rule in the NPRM.

The rule establishes five temporary safety zones in the U.S. EEZ for the safe reentry vehicle splashdown and recovery of reentry vehicles launched by SpaceX in support of NASA missions through the remainder of 2022. Three of the five temporary safety zones are located off the coast of FL in the Atlantic Ocean in the following areas:

- (1) Approximately 65 nautical miles (NM) northeast from Jacksonville;
- (2) Approximately 29 NM northeast from Daytona; and
- (3) Approximately 17 NM east from Port Canaveral.

The remaining two temporary safety zones are located off the coast of FL in the Gulf of Mexico in the following areas:

- (1) Approximately 58 NM northwest from Tampa Bay; and
- (2) Approximately 43 NM south from Tallahassee.

The Jacksonville, Daytona, Cape Canaveral, and Tampa safety zones have an approximate area of 256 square miles, and are diamond shaped with the top point of the

diamond pointing to the North. The Tallahassee safety zone is approximately 59 square miles in size and is triangular in shape. The Tallahassee safety zone, as provided by NASA and SpaceX, is the same size and shape as the other four safety zones; however, only a portion of the safety zone is within the jurisdiction of the Seventh Coast Guard District, so only the 59 square miles is included in this rule. The remaining portion of the safety zone falls within the Eighth Coast Guard District AOR.

To the extent feasible, the District Commander or a designated representative will inform the public of the activation of the five temporary safety zones by Notice of Enforcement (NOE) published in the **Federal Register** at least 2 days before the reentry vehicle splashdown. The NOE would identify the approximate date(s) during which a reentry vehicle splashdown and recovery operations would occur.

To the extent possible, 24 hours before a reentry vehicle splashdown and recovery operation, the District Commander or designated representative will inform the public that only one of the five safety zones will remain activated (subject to enforcement) until announced by Broadcast Notice to Mariners (BNM) on VHF-FM channel 16, and/or Marine Safety Information Bulletin (MSIB) (as appropriate) that the safety zone is no longer subject to enforcement. The specific temporary safety zone to be enforced would be based on varying mission and environmental factors, including atmospheric conditions, sea state, weather, and orbital calculations.

The MSIB will include the geographic coordinates of the activated safety zone, a map identifying the location of the activated safety zone, and information related to potential hazards associated with a reentry vehicle splashdown and recovery operations associated with space activities, including marine environmental and public health hazards, such as the release of hydrazine and other potential oil or hazardous substances.

When the safety zone is activated, the District Commander or a designated representative will be able to restrict U.S.-flagged vessel movement including but not

limited to transiting, anchoring, or mooring within the safety zone to protect vessels from hazards associated with space activities. The activated safety zone will ensure the protection of vessels and waterway users from the potential hazards created by reentry vehicle splashdowns and recovery operations. This includes protection during the recovery of a reentry vehicle, and the protection of personnel involved in reentry services and space support vessels.⁸

After a reentry vehicle splashdown, the District Commander or a designated representative would grant general permission to come no closer than 3 NM within the activated safety zone from any reentry vehicle or space support vessel engaged in the recovery operations. The recovery operations are expected to last approximately 1 hour. That should allow for sufficient time to let any potential toxic materials clear the reentry vehicle, recovery of the reentry vehicle by the space support vessel, and address any potential medical evacuations for any personnel involved in reentry services that were onboard the reentry vehicle.

Once a reentry vehicle and any personnel involved in reentry services are removed from the water and secured onboard a space support vessel, the District Commander or designated representative will issue a BNM on VHF-FM channel 16 announcing the activated safety zone is no longer subject to enforcement. A photograph of a reentry vehicle and space support vessel expected to use the reentry sites are available in the docket.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these

⁸ *Space Support Vessel* means any vessel engaged in the support of space activities. These vessels are typically approximately 170 feet in length, have a forward wheelhouse, and are equipped with a helicopter pad and lifting crane.

statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and scope of the temporary safety zones. The temporary safety zones are limited in size and location to only those areas where reentry vehicles splashdown and recovery operations occur. The safety zones are limited in scope, as vessel traffic will be able to safely transit around the activated safety zone which will only impact a small part of the U.S. EEZ within the Atlantic Ocean and Gulf of Mexico. This rule involves the establishment of five temporary safety zones which would be activated 2 days before a reentry vehicle splashdown and recovery operations. Twenty-four hours before a reentry vehicle splashdown, one of the five temporary safety zones would remain active. After a reentry vehicle splashdown, general permission will be granted to come no closer than 3 NM within the activated safety zone. There is a danger associated with fumes from the reentry vehicle after it has splashed down. Once a reentry vehicle and any personnel involved in reentry services are removed from the water and secured onboard a space support vessel, the activated safety zone will no longer be subject to enforcement. The activated safety zone will ensure the protection of vessels and waterway users from the potential hazards created by a reentry vehicle splashdown and recovery operations and the recovery of a reentry vehicle, personnel involved in reentry services, and space support vessel.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

The safety zones are only expected to last a few hours from reentry vehicle splashdown to recovery. Vessels will be able to transit around the activated safety zone location during these recoveries. We do not anticipate any significant economic impact resulting from activation of the safety zones.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have

determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of five temporary safety zones which would be activated 2 days before a reentry vehicle splashdown and recovery operations. Twenty-four hours before a reentry vehicle splashdown, one of the five temporary safety zones will remain active. After a reentry vehicle splashdown, general permission would be granted to come no closer than 3 NM within the activated safety zone. Once a reentry vehicle and any personnel involved in reentry services are removed from the water and secured onboard a space support vessel, the activated safety zone will no longer be subject to enforcement. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 is revised to read as follows:

Authority: 46 U.S.C. 70034, 70051; section 8343 of Pub. L. No. 116-283, 134 Stat. 3388, 4710; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

Add § 165.T07-0289 to read as follows:

§ 165.T07-0289 Safety Zones in Reentry Sites; Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida.

(a) *Location.* The coordinates used in this paragraph are based on the World Geodetic System (WGS) 1984. The following areas are safety zones:

(1) *Jacksonville site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, thence to Point 4, and then back to Point 1.

Table 1 to paragraph (a)(1)

Point 1	31°06'28" N	080°15'00" W
Point 2	30°55'01" N	080°01'40" W
Point 3	30°43'30" N	080°15'00" W
Point 4	30°55'01" N	080°28'19" W

(2) *Daytona site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, thence to Point 4, and then back to Point 1.

Table 2 to paragraph (a)(2)

Point 1	29°59'27" N	080°40'01" W
Point 2	29°48'00" N	080°26'52" W
Point 3	29°36'32" N	080°40'01" W
Point 4	29°48'00" N	080°53'09" W

(3) *Cape Canaveral site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, thence to Point 4, and then back to Point 1.

Table 3 to paragraph (a)(3)

Point 1	29°02'27" N	080°13'48" W
Point 2	28°51'00" N	080°00'46" W
Point 3	28°39'32" N	080°13'48" W
Point 4	28°51'00" N	080°26'49" W

(4) *Tampa site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, thence to Point 4, and then back to Point 1.

Table 4 to paragraph (a)(4)

Point 1	28°17'27" N	083°54'00" W
Point 2	28°06'00" N	083°41'02" W
Point 3	27°54'32" N	083°54'00" W
Point 4	28°06'00" N	084°06'57" W

(5) *Tallahassee site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, and then back to Point 1.

Table 5 to paragraph (a)(5)

Point 1	29°22'38" N	084°05'20" W
Point 2	29°16'58" N	083°58'55" W
Point 3	29°06'20" N	084°11'12" W

(b) *Definitions.* As used in this section --

Designated representative means a Coast Guard Captain of the Port (COTP) in the Seventh Coast Guard District; Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel; Coast Guard Representatives in the Merrill Operations Center; and other officers designated by the District Commander of the Seventh Coast Guard District or cognizant COTP.

District Commander means Commander of the Seventh Coast Guard District.

Reentry Services means activities involved in the preparation of a reentry vehicle and payload, crew (including crew training), government astronaut, or space flight participant, if any, for reentry; and the conduct of a reentry.

Reentry vehicle means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact.

Space Support Vessel means any vessel engaged in the support of space activities. These vessels are typically approximately 170 feet in length, have a forward wheelhouse, and are equipped with a helicopter pad and lifting crane.

Splashdown means the landing of a reentry vehicle into a body of water.

(c) *Regulations.* (1) Because the safety zones described in paragraph (a) of this section are within the U. S. Exclusive Economic Zone, only U.S.-flagged vessels are subject to enforcement. All foreign-flagged vessels are encouraged to remain outside the safety zones.

(2) In accordance with the general regulations in 33 CFR part 165, subpart C, no U.S.-flagged vessel may enter the safety zones described in paragraph (a) of this section unless authorized by the District Commander or a designated representative, except as provided in paragraph (d)(3) of this section.

(d) *Notification of enforcement.* (1) To the extent feasible, the District

Commander or a designated representative will inform the public of the activation of the five safety zones described in paragraph (a) of this section by Notice of Enforcement published in the **Federal Register** at least two days before the splashdown.

(2) To the extent possible, twenty-four hours before a reentry vehicle splashdown, the District Commander or designated representative will inform the public that only one of the five safety zones described in paragraph (a) will remain activated until announced by Broadcast Notice to Mariners on VHF-FM channel 16, and/or Marine Safety Information Bulletin (as appropriate) that the safety zone is no longer subject to enforcement.

(3) After a reentry vehicle splashdown, the District Commander or a designated representative will grant general permission to come no closer than 3 nautical miles of any reentry vehicle or space support vessel engaged in the recovery operations, within the activated safety zone described in paragraph (a) of this section.

(4) Once a reentry vehicle, and any personnel involved in reentry service, are removed from the water and secured onboard a space support vessel, the District Commander or designated representative will issue a Broadcast Notice to Mariners on VHF-FM channel 16 announcing the activated safety zone is no longer subject to enforcement.

(e) *Effective period.* This section is effective from August 10, 2022, through December 31, 2022.

Dated: August 01, 2022

Brendan C. McPherson,
Rear Admiral, U.S. Coast Guard,
Commander, Seventh Coast Guard District.
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